IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1646 OF 2006

Shri. Mahila Griha Udyog Lijjat
Papad and another ... Petitioners

Vs.

Saraswat Co-op. Bank Ltd.
and anr. ... Respondents

Mr. P.R. Kadam with Mr. M.M. Vaidya for Petitioner.

Mr. Y.R. Naik for R. No. 1.

CORAM: F.I. REBELLO &
MRS.V.K.TAHILRAMANI,JJ.
DATE : 24TH JULY, 2006

P.C.:

. The Petitioner has come to this court on the ground that though they have received the notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, they have received no reply and consequently the present petition. In their submission what section 13(2)(A) contemplates is that the Respondent have to reply to the notice and not only such objection must be considered with due application of mind but reasons for non accepting objection must be communicated to the borrower.

. Reliance is also placed in the judgment of the Division Bench of this Court in the case of M.R.

Gawai Enterprsies Versus Vidarbha Urban Cooperative Bank Limited and another 2005(1) Bom.C.R. 276.

. On behalf of the respondents, the learned counsel has placed on record the communication dated 13.5.2006, addressed by the Petitioner to the counsel for the Petitioners. The Petitioners denied the receipt of the said reply. Even if we proceed on the footing that the same was not received, at any rate, the Petitioner would have the notice of the same today. The contention urged is that in terms of rule 13(4)(A) notice ought to be of at least 7 days. There are two aspects of the matter. Firstly Sub Section (3A) would contemplate that the respondent have to give reasons. In so far as time is concerned, in such matters it cannot be mandatory and will have to be read as directory. The object behind the notice is that the person like the Petitioner knows that how his objections have been considered and disposed of. Till today the Respondents have not taken possession. In our opinion, therefore, the notice of 13.5.2006 can be considered to be proper notice received by the Petitioner at least as of today.

. We then come to the second contention namely as to whether there are any reasons given in the

communication dated 13.5.2006. The Respondent proceeded on the footing that the Petitioners are justly indebted to the Respondent and that there is valid mortgage in their favour. In our opinion, this would constitute reasons for not accepting the reply filed on behalf of the Petitioners. It is not as if the Petitioners are left without any remedy. The Petitioners have remedy under Section 17 of the Securitization Act. Considering that in our opinion, this will not be a fit case for this court to exercise its extra ordinary jurisdiction. Petition disposed of.

. The learned counsel for the Petitioners seeks stay of the order. This is not a fit case for this court to grant stay. Hence, oral application for stay is rejected.

(MRS.V.K.TAHILRAMANI,J.) **(F.I.REBELLO, J.)**